IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 308 OF 2006

Vinod Pithabhai Boricha ...Applicant.

V/s

1. The State of Maharashtra
and anr. ...Respondents.

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Mr. Mahesh N. Kotian i/b Dilip Devadiga for the applicant.

Mr. S.S. Tatkare, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 25th January, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant has an apprehension that he is likely to be arrested in connection with the offence which is registered with the Bandra (West) Police Station vide C.R. No. 564 of 2005 in which it is alleged that the applicant may be involved in the withdrawal of certain amounts from the complainant - Bank on the basis of the forged cheques.

3. It is submitted by the learned Counsel appearing on behalf of the applicant that, initially, the

applicant was the employee of the Bank and there was complaint against him towards the theft of US Dollars and, thereafter, the applicant was arrested and released on bail and he was asked to report to the said Police Station. He has submitted that pursuant to the said directions which were given, he had reported to the Police Station save and except for few days when he was hospitalised on account of severe gout of arthritis. It is submitted that apart from mere suspicion, there is no shade of evidence against the present applicant. It is submitted that it is not the case of the complainant that either any employee of the Bank had seen the applicant presenting the said forged cheques or the applicant was seen while withdrawing the amount from the Bank.

4. The learned APP submits that the custodial interrogation of the applicant is essential as similar offence was committed by the applicant in the past and in the F.I.R. the complainant has specifically named the applicant.

5. In my view, this is not a fit case for grant of anticipatory bail. The complaint has been registered regarding defalcating the amount of Rs 3,20,000/- on the basis of the forged cheques and other two cheques.

At this stage, since the investigation is going on and the police have right to investigate in to the matter, in my view, this is not a fit case for grant of anticipatory bail. The application for anticipatory bail is, therefore, rejected.

6. It is clarified that after an application for bail is preferred by the applicant after his arrest before the regular Court, the same may be decided on its own merits and the Court will not be influenced by the fact that the application for anticipatory bail has been rejected as the parameters for grant of anticipatory bail and regular bail are entirely different.

V.M. KANADE, J.